

| | |
|-------------------------------|---|
| | England and Wales, Queens Bench Division, Commercial Court on 10 December 2010 with Claim Number 2010 Folio 1478 against the Ashby Trustee and eleven others |
| "Euro Management Agreement" | Agreement made between Kingate Euro and KML dated 1 May 2000 |
| "Extension Request" | The request by KML to the Holding Companies in or around June 2010 for a further loan in the sum of US\$1,200,000 |
| "Fault Based Claims" | Fault based claims made in the Bermuda Proceedings against KML, FIM, Mr Grosso and Mr Ceretti |
| "Fifth Creditors' Reports" | Mr Tacon's Fifth Report to Creditors and Investors dated 27 January 2011 for each of the Kingate Funds |
| "FIM" | FIM Advisers LLP and FIM Limited taken together |
| "FIM Funds" | FIM funds of funds |
| "Freezing Order" | Order of the Monaco Court for the immediate attachment of assets held in a number of accounts in the name of the Ashby Trustee, the Ashby Holding Company, the Ashby Investment Company and certain HSBC Monaco Accounts connected to the El Prela Trust and Mr Ceretti |
| "Freshfields" | Freshfields Bruckhaus Deringer US LLP |
| "Global Management Agreement" | Agreement made between Kingate Global and KML dated 1 January 2006 (superseding and replacing previous management agreements between those parties dating back to 1994) |
| "Holding Companies" | The Ashby Holding Company and the El Prela Holding Company taken together |
| "HNL" | Hamilton Nominees Limited |
| "HSBC Monaco" | HSBC Private Bank (Monaco) SA |
| "Initial Transfer Claims" | Alleged avoidable and recoverable transfers made from BLMIS to the Kingate Funds asserted in the Third Amended Complaint |
| "Investment Companies" | The Ashby Investment Company and the El Prela Investment Company taken together |
| "Investment Objectives" | The investment objectives defined by the Ashby Trustee for the investment of the assets of the Ashby Trust |
| "Kingate B" | The class of shares called Kingate Global Fund – Class B Shares, created by Kingate Global at the end of February 1995 |
| "Kingate DM" | The class of shares called Kingate Global Fund – Class DM Shares, created by Kingate Global on 1 January 1996 |
| "Kingate Euro" | Kingate Euro Fund Limited (in liquidation) |
| "Kingate Funds" | Kingate Global and Kingate Euro taken together |
| "Kingate Global" | Kingate Global Fund Limited (in liquidation) |
| "KML" | Kingate Management Limited |
| "LG" | Lawrence Graham LLP, the Trustees' English Solicitors |
| "Loan Agreement" | The agreement dated 16 July 2009 between the Holding Companies (as lenders) and KML (as borrower) in respect of a term loan facility of up to US\$1,200,000 |
| "Loan Agreements" | The Loan Agreement and the Supplemental Loan Agreement taken together |
| "Lombard Odier" | Lombard Odier Darier Hentsch & Cie in Geneva, Switzerland |
| "Madoff" | Mr Bernard Madoff, principal of BLMIS |
| "Management Agreements" | The Global Management Agreement and the Euro Management Agreement taken together |
| "Monaco Affidavits" | Taken together, the Witness Statement of Andrew Wills dated 2 March 2009 and Exhibit "AW1"; the Affidavit of Mr Grosso dated 27 February 2009; the Affidavit of Peter |

| | |
|--------------------------------|--|
| | Brigham (as Company Secretary of the Ashby Trustee) dated 19 March 2009; the Affidavit of Mr Ceretti dated 27 February 2009; and the Affidavit of Peter Brigham (as Director of the El Prela Trustee) dated 19 March 2009, served in connection with the Monaco Freezing Order |
| "Monaco Court" | The Court of First Instance of the Principality of Monaco |
| "Monaco Prosecutor" | Public Prosecutor of the Principality of Monaco |
| "Moore Stephens International" | International accounting and consulting association. Moore Stephens & Company Bermuda is a member of Moore Stephens International. The Ashby Trustee and Moore Stephens Monaco are 100% subsidiaries of Moore Stephens & Company Bermuda |
| "Moore Stephens Monaco" | Moore Stephens Services SAM, whose offices are at L'Estoril, 31 Avenue Princesse Grace, Monte Carlo, MC 98000, Monaco. It is a company authorised by the government of the Principality of Monaco and acts as administrator to the Ashby Trustee and El Prela Trustee |
| "Mr Ceretti" | Mr Federico Ceretti, settlor and named beneficiary of the El Prela Trust |
| "Mr Grosso" | Mr Carlo Grosso, settlor of the Ashby Trust |
| "Mr Imrie" | Mr Mac Imrie, a partner in the Cayman Islands office of Maples and Calder, who is admitted as a solicitor advocate in the BVI |
| "Mr Picard" | Irving H Picard, trustee for the liquidation of BLMIS |
| "Mr Tacon" | Mr William R Tacon and Mr Richard E L Fogerty of Zolfo Cooper, Joint Liquidators of the Kingate Funds |
| "Non-Fault Based Claims" | Non-fault based claims made in the Bermuda Proceedings against KML, the Trustees, the Ashby Holding Company, the El Prela Holding Company, Mr Grosso and Mr Ceretti |
| "Payment Instruction" | The transfer instruction sent by the El Prela Trustee to Lombard Odier on 12 December 2008 |
| "Petition" | A petition for the winding up of KML issued on 7 September 2011 |
| "Picard Claims" | The Third Amended Complaint and the English Claim taken together |
| "Picard US Complaint" | Complaint filed by Mr Picard in the United States Bankruptcy Court, Southern District of New York on 17 April 2009 against the Kingate Funds and Bank of Bermuda, with reference ADV.Pro.No.08-01789 (BRL) |
| "Port of Hercules Directors" | Port of Hercules Directors Limited |
| "SEC" | United States Securities and Exchange Commission |
| "Shares" | Participating common shares in the Kingate Funds |
| "SICCFIN Report" | Written report of SICCFIN to the Monaco Prosecutor dated 17 December 2008 |
| "SICCFIN" | The Service d'Information et de Contrôle Sur les Circuits Financiers of the Principality of Monaco |
| "SIPA" | United States Securities Investor Protection Act |
| "SIPC" | United States Securities Investor Protection Corporation |
| "Statutory Demand" | The notice of statutory demand dated 8 August 2011 issued by the Ashby Holding Company on KML |
| "Subsequent Transferee Claims" | Alleged subsequent transfers asserted in the Third Amended Complaint arising from the Initial Transfer Claims |
| "Supplemental Loan Agreement" | The agreement dated 28 September 2010 supplemental to the Loan Agreement between the Holding Companies (as lenders) and KML (as borrower) extending the facility granted by way of the Loan Agreement by up to US\$1,200,000 |

| | |
|--------------------------------|---|
| "Third Amended Complaint" | A claim brought against the Ashby Trustee and others in the Bankruptcy Court by Mr Picard with case reference Adv. Pro. No. 09-1161 (BRL) |
| "Transfers" | The total sum of US\$975,541,729 received by the Kingate Funds from BLMIS in the period before Madoff's arrest |
| "Trott & Duncan" | Trott & Duncan Limited |
| "Trust Deed" | Instrument of trust relating to the El Prela Trust dated 7 April 1994 |
| "Trustees" | The Ashby Trustee and the El Prela Trustee taken together |
| "Trusts" | The Ashby Trust or the El Prela Trust taken together |
| "Unanimous Written Resolution" | A unanimous shareholders' resolution in respect of the winding up of KML purportedly passed on 10 August 2011 |
| "UK" | United Kingdom |

THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
BRITISH VIRGIN ISLANDS
BVIHCV 2011/
BETWEEN:

PORT OF HERCULES TRUSTEES LIMITED
(AS TRUSTEE OF THE EL PRELA TRUST)

Claimant

-and-

(1) IRVING H PICARD
(as trustee for the substantively consolidated
SIPA liquidation of Bernard L Madoff Investment
Securities LLC and the estate of Bernard L
Madoff)

(2) KINGATE GLOBAL FUND LIMITED (IN
LIQUIDATION)
(acting by William R Tacon and Richard E Fogerty
as joint liquidators)

(3) KINGATE EURO FUND LIMITED (IN
LIQUIDATION)
(acting by William R Tacon and Richard E Fogerty
as joint liquidators)

(4) FEDERICO CERETTI
(as representative of the adult beneficiaries of
the El Prela Trust)

(5) MAC IMRIE
(as representative of the minor, unborn and
unascertained beneficiaries of the El Prela
Trust)

(6) HER MAJESTY'S ATTORNEY GENERAL OF
THE BRITISH VIRGIN ISLANDS

Defendants

AFFIDAVIT OF
FRANK OLIVER WALTERS

Maples & Calder
Sea Meadow House, PO Box 173
Road Town
Tortola VG1110
British Virgin Islands

Ref: ADI/660226